IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1651 OF 2005

Jagannath V. Phadnis. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
....
Mr.S. M. Sabrad i/b. Amit B. Borkar for the Petitioner.
Mr. P. M. Patil, AGP for the Respondents.
.....

CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

June 30, 2005.

P.C.:

The father of the Petitioner was adopted by the family of Phadnis sometime in the year 1918. There were several litigations and finally adoption of the father of the Petitioner in Phadnis family was upheld by the High Court and the Supreme Court. After success in civil litigation, the father of the Petitioner applied to the Collector of Kolhapur to hand over possession of various lands which according to him, were Vatan lands as well as Dharmadaya lands which were included in Jahagir (Himmat Bahadur) allegedly belonging to the Phadnis family. The claim was rejected by all

the authorities. Ultimately, the Petitioner filed Writ Petition No.2336 of 1983. The Division Bench dismissed the Writ Petition vide order dated 12th December 1996. The observations of the Division Bench which are material for the purposes of this petition are reproduced below :

> "6. The reason given by the Officer on Special Duty i.e. That there is no evidence on record to show that the Kolhapur Darbar had no authority to abolish the dharmadaya watan inams in Jahagir area, is difficult to be appreciated. However after gone through all the orders, we are of the clear opinion that upon specific enquiry and upon the record as was available, the Deputy Collector submitted the report, which shows that all the S.Nos. 70/2, 68, 28, 162 at Lingnur and S.No. 37 at Kumbhalal villages were already regranted much prior to 1-8-1955 and as such there is no question of same being again regranted in favour of the Petitioner as a result of the provisions of the Bombay Merged Territories Act, 1955. we must also observe that as a matter of fact

from the material on record Petitioner has failed to show that these lands were enjoyed as inam lands by Phadnis. On the basis of the material as it stands, to which we have made a detailed reference we do not find that the Petitioner has made out any case in support of his claim to the aforesaid survey numbers or that the orders passed by the Collector and confirmed by the Officer on Special Duty could be interfered with in writ jurisdiction on the basis of the record as it stands."

In the light of the decision of the Division Bench, it is not open to the Petitioner to again reagitate the claim for restoration of vatan lands and dharmadaya lands. The representation made by the Petitioner agitating the same issue is clearly not maintainable. Petition is dismissed.

.....